

## Title 4. California Gambling Control Commission

### **Initial Statement of Reasons**

CGCC-GCA-2007-R-3

#### “Two Year Licensing of Gambling Establishments and Key Employees”

The Gambling Control Act (Act)<sup>1</sup> provides the California Gambling Control Commission (Commission) with jurisdiction over the operation of gambling establishments in California.<sup>2</sup> The Act assigns the Commission with the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.<sup>3</sup> The Act directs the Commission to issue licenses only to those persons of good character, honesty and integrity, whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state.<sup>4</sup>

In carrying out this mission, the Commission must deny a gambling license to any applicant who is disqualified under a list of various criteria that include felony convictions, misdemeanor convictions involving dishonesty or moral turpitude within a preceding 10-year period, and associations with criminal profiteering activity or organized crime.<sup>5</sup> As a result, the Commission and the Division of Gambling Control (Division) have established license application and renewal processes for gambling establishments and their key employees that include detailed application forms and extensive applicant background investigations.<sup>6</sup> Although necessary, these processes can be burdensome for the license applicant, and time consuming for the Commission and Division. As a result, to renew a gambling license or key employee license, the licensee is required to file a renewal application with the Commission no later than 120 days prior to the expiration of the license.<sup>7</sup>

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<sup>1</sup> Business and Professions Code, sections 19800 through 19987

<sup>2</sup> Business and Professions Code, section 19811

<sup>3</sup> Business and Professions Code, section 19823

<sup>4</sup> Business and Professions Code, section 19857

<sup>5</sup> Business and Professions Code, section 19859

<sup>6</sup> California Code of Regulations, Title 4, sections 12342, 12343, 12344 and 12345

<sup>7</sup> Business and Professions Code, subdivision (b) of section 19876

In an effort to make the license renewal process less burdensome upon the licensee and to provide the Commission and Division with critically needed time to process renewal applications and conduct background investigations, the Commission proposes to amend California Code of Regulations, Title 4, Chapters 6 and 7. This proposed action would replace the current one-year license term for gambling licenses and key employee licenses with a two-year term, and will align the annual payment of table fees with the annual submission of financial statements. In the process of establishing a two-year license term, this proposed action would also consolidate many current license application forms and amend other forms for clarity purposes.

The Act requires gambling licenses and key employee licenses to be renewed either annually, or for a longer period that the Commission may set, not to exceed two years.<sup>8</sup> These regulations replace the current annual license renewal period with a two-year renewal period.

To renew a license, the licensee must (120 days prior to expiration), complete and submit to the Commission an “Application for State Gambling License, CGCC-30 (Rev. 01-05)” or an “Application for Key Employee License, CGCC-031 Rev. 01-05”, whichever is applicable, complete a “Renewal Supplemental Information for State Gambling/Key Employee License and Instructions to Renewal Applicants, DGC-APP. 017A (Rev. 12-04)”, and submit the applicable renewal fee.<sup>9</sup> These forms can be burdensome to complete, as they require considerable background information about the applicant. Further, each gambling establishment is required to submit all of their key employee license renewal applications, along with their own gambling license renewal application, all in a single package.<sup>10</sup> This requires the owner of the gambling establishment to coordinate the process with all of their key employees.

When received at the Commission, each renewal package must be reviewed for completeness. In the event that the renewal package is found to be incomplete, the licensee must be advised to submit the additional information or required fees.

Once the Commission is satisfied that the renewal application is complete, the package is forwarded to the Division for analysis and possible investigation.<sup>11</sup> Should the Division determine that further investigation is necessary regarding the background of one or more of the applicants in the package, the applicant may be

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<sup>8</sup> Business and Professions Code, subdivision (a), of section 19876

<sup>9</sup> California Code of Regulations, Title 4, subsection (a), of section 12344

<sup>10</sup> California Code of Regulations, Title 4, subsection (c), of section 12344

<sup>11</sup> California Code of Regulations, Title 4, paragraph (3), of subsection (a), of section 12345

required to submit additional fees to defer the cost of the investigation.<sup>12</sup> When their investigation is completed, the Division submits its recommendation concerning the renewal application to the Commission.<sup>13</sup>

The Commission will then consider the renewal application for approval or disapproval at a regularly scheduled public meeting.

Changing the license renewal period from one to two years will lessen the burden on licensees, will provide the Commission with the additional time needed to process license applications, and will provide the Division with critically needed additional time to perform the required background investigations of license applicants. This process can take up to 120 days (four months) to complete. These regulations will reduce the frequency of the entire license renewal process by 50%.

The Act requires the Commission to assure that licenses are not issued to, or held by unqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare. Further, the Act requires the Commission to assure that there is no material involvement with a gambling operation by unqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.<sup>14</sup> In response to these responsibilities, the Commission and the Division have established in regulation various forms that request information from applicants that assists the Division in an investigation of the applicant's background and associations.<sup>15</sup> These regulations will consolidate many of these forms into one form, thus simplifying the application and renewal process for the applicant.

These proposed regulations include a complete rewrite of Commission forms: "Application for State Gambling License, CGCC-030 (Rev. 06/07)" and "Application for Key Employee License, CGCC-031 (Rev. 06/07)". The revisions to these forms include information that has in the past been requested on many other Division forms. As a result, these proposed regulations would abolish the following forms that will no longer be necessary:

- Renewal Supplemental Information for State Gambling/Key Employee License and Instructions to Renewal Applicants, DGC-APP. 017A (Rev. 12-04)
- Report of Annual Gross Revenues, DGC-APP. 018 (Rev. 09-03)

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<sup>12</sup> California Code of Regulations, Title 4, subsection (d), of section 12344

<sup>13</sup> California Code of Regulations, Title 4, paragraph (4), of subsection (a), of section 12345

<sup>14</sup> Business and Professions Code, paragraphs (1) and (2), of subdivision (a), of section 19823.

<sup>15</sup> California Code of Regulations, Title 4, subsection (a), of section 12342

- Declaration of Compliance With The Requirement for Public Notice of Application for a Gambling License, DGC-LIC. 100 (Rev. 07-03)
- Instructions for Public Notice of an Application for a Gambling Establishment License, DGC-LIC. 102 (Rev. 07-03)
- Public Notice of An Application for a Gambling Establishment License, DGC-LIC. 102A (Rev. 7-03)
- Employee Work Permit Certification, DGC-APP. 019 (Rev. 09-03)
- Instructions to Applicants, DGC-APP. 007 (Rev. 12-04)

In addition to assuming the roles of many other Division forms, Commission forms CGCC-030 and CGCC-031 have been amended for clarity purposes. For example, the first page of the form has been changed to include an improved explanation as to the requirements for licensure of the various persons who may have an interest in a gambling operation, or for those who are considered key employees of a gambling operation. Further, these revised forms provide an improved explanation of the various Division forms that will be required as part of a license application package.

In the process of consolidating the above noted forms into one license application form, the Division found that many other forms relating to gambling license applications and key employee license applications could be refined, clarified or simplified to produce a better understanding from the applicant. As a result, these proposed regulations would amend the following Division forms:

- Cardroom Applicant Supplemental Information for State Gambling License, DGC-APP. 015A (Rev. 09-04)
- Cardroom Applicant- Business Supplemental Information for State Gambling License, DGC-APP. 015B (New 09-04)
- Gambling Establishment Supplemental Information for State Gambling License, DGC-APP. 015C (New 09-04)
- Cardroom Key Employee Supplemental Information for State Gambling License, DGC-APP. 016A (Rev. 09-04)
- Authorization to Release Information, DGC-APP. 006 (Rev. 09-04)

Current regulations require that an applicant for a State Gambling License submit to the Division a completed Internal Revenue Service (IRS) form entitled “Tax Information Authorization (IRS 8821, Rev. April 2004).<sup>16</sup> This form authorizes the Division to obtain copies of federal tax returns that have been submitted to the IRS

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<sup>16</sup> California Code of Regulations, Title 4, paragraph (28), of subsection (a), of section 12342, and paragraph (1), of subsection (a), of section 12343

by the license applicant. The information is utilized by the Division to verify the applicant's income. When the Division receives this authorization form, another IRS form, (Request for Transcript of Tax Return, IRS 4506-T, Rev. April 2006), must be completed to request a transcript of the applicant's tax return(s). IRS form 4506T already has a section printed on it where the applicant can request that a copy of their transcript(s) be sent to a third party, in this case the Division. To make the process simpler and quicker for both the applicant and the Division, these regulations will change the required form from the IRS 8821 to the IRS 4506-T. This will help to speed-up the process by going directly to the form that causes the tax return transcript(s) to be sent to the Division.

These proposed regulations would also add a new Division form that will request supplemental background information about those gambling license applicants that are part of a trust. This new form is entitled, "Trust Supplemental Background Investigation Information, DGC-APP. 143 (New 06/07)". It requests information that may be unique to a trust, such as the identity of the trustee, trustor, beneficiary and trust authority. This new form is authorized by Business and Professions Code, subdivision (e) of section 19852.

The Act requires the holder of a gambling license to pay an annual fee that is set by a schedule based on the number of tables in use, or by their gross revenues, whichever fee amount is greater.<sup>17</sup> These regulations will base the annual fee on the tables or gross revenues for the calendar year immediately preceding the date on which the fee is due. The fee will be due on April 30<sup>th</sup> of each calendar year. For example, the amount of the fee due on April 30, 2009 would be based on the number of tables or gross revenues for calendar year 2008. These annual fees will be on the same schedule as that specified for the annual submission of financial statements.<sup>18</sup> This means that the annual fee and financial statements would both be due on April 30 of each year. As a result, these changes will help to lessen the burden upon the holder of a gambling license, by placing two annual processes onto the same schedule.

Current regulations allow the owner licensee of a gambling establishment to apply to operate more tables than is regularly authorized, on both a temporary or permanent basis.<sup>19</sup> As part of these regulations, the applicant is required to submit

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<sup>17</sup> Business and Professions Code, subparagraph (B), of paragraph (2), of subdivision (b), and subdivisions (c) and (d) of section 19951

<sup>18</sup> See amended text for California Code of Regulations, Title 4, paragraph 4, of subsection (b), of section 12400 and subsection (b), of section 12403

<sup>19</sup> California Code of Regulations, Title 4, subsection (a), of section 12358, and subsection (a), of section 12359

an application fee to the Commission, and a review deposit to the Division.<sup>20</sup> Both of these fees are deposited into the same state fund (The Gambling Control Fund), and are available to both the Commission and the Division, upon appropriation by the Legislature.<sup>21</sup> As a result, these regulations will simplify the process by having the applicant submit both fees directly to the Commission, along with their original application form and additional table fees.

Current regulations require a licensee to develop an emergency preparedness and evacuation plan.<sup>22</sup> Current regulations also require that a licensee submit a copy of its plan as part of the annual license renewal application.<sup>23</sup> These proposed regulations would delete the word “annual”, so that the submission of a licensee’s plan can conform to a biennial license renewal process. These proposed regulations would also delete obsolete effective date language for the submission of a licensee’s emergency preparedness and evacuation plan. These proposed regulations would also eliminate the need for the licensee to forward two copies of its plan to the Commission, and instead require that only one copy be submitted. This would help to reduce the burden upon the licensee during the renewal of its license. The Commission no longer needs the second copy of the plan, as copies are forwarded to the Division electronically.

Finally, for purposes of clarity, these regulations will add a definitions section to Chapter 6 of Title 4, will divide the chapter into three (3) articles, and make other minor conforming changes.

**The particulars of this regulation package are as follows:**

In general, chapter 6 has been reorganized into three separate articles. Article 1 contains definitions and general provisions. Article 2 is devoted to those sections that deal with licensing matters, while Article 3 pertains to table fees and requests for additional tables.

For clarity purposes, subsection (a) of section 12335 has been added which applies the definitions in section 12002 to Chapter 6. Section 12002 is the general definitions section that applies to all of Division 18, of which Chapter 6 is a part. In addition to applying definitions for specific terms, section 12002 also applies the definitions in Business and Professions Code section 19805 to all of Division 18. It

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<sup>20</sup> California Code of Regulations, Title 4, paragraph (2), of subsection (a), of section 12358, and paragraph (2), of subsection (a), of section 12359

<sup>21</sup> Business and Professions Code, subdivision (b), of section 19950

<sup>22</sup> California Code of Regulations, Title 4, subsections (b) and (c), of section 12370

<sup>23</sup> California Code of Regulations, Title 4, subsection (d), of section 12370

is important that this connection be made, as many of the terms defined in Business and Professions Code section 19805 are used in Chapter 6.

For clarity purposes, subsection (b) of section 12335 has been added to Chapter 6. It establishes definitions for the terms “Gambling Enterprise” and “Table Fee”, as used in Chapter 6. The term “gambling enterprise” is used in Business and Professions Code, subdivision (l) of section 19805. These regulations will define the term “Gambling Enterprise” as being synonymous with the term “Gambling Operation”, as defined in Business and Professions Code, subsection (o) of section 19805. These regulations will also define the term “Table Fee” as meaning those fees established by Business and Professions Code, paragraph (2), subdivision (b) of section 19951.

Subsection (a) of section 12340 has been added to Chapter 6, which establishes a basic licensing requirement for gambling operations and key employees of gambling operations. Business and Professions Code sections 19850, 19851 and 19852 provide the authority for establishing section 12341.

Subsection (b) of section 12340 has been added which establishes a two-year term for a state gambling license and key employee license. Business and Professions Code, subsection (a) of section 19876 requires that licenses be renewed either annually or for a longer period that the Commission may set, not to exceed two years.

The content of forms DGC-APP. 017A, DGC-APP. 018, DGC-LIC. 100, DGC-LIC. 102, DGC-LIC. 102A, DGC-APP. 019 and DGC-APP. 007 have been incorporated into existing application forms for state gambling licenses (CGCC-030) or key employee licenses (CGCC-031). As a result, the regulations that incorporate these no longer used forms are being repealed. California Code of Regulations, Title 4, paragraphs (8), (15), (16), (17), (18), (20), and (22) of subsection (a), of section 12342 are repealed by these proposed regulations. Likewise, paragraphs (1) and (2) of subsection (a) of section 12342, paragraph (1) of subsection (a) of section 12343, paragraph (1) of subsection (a) of section 12344, and paragraph (2) of subsection (a) of section 12345 have been amended to reflect new revision dates for forms CGCC-030 and CGCC-031. In these same sections, the title of form CGCC-031 has also been amended to “Application for Gambling Establishment Key Employee License” to better reflect that the license is issued to key employees of a specific gambling establishment. Other paragraphs in subsection (a) of section 12342 have been renumbered for conformity purposes. Finally, the words “and Renewal” have been deleted from the title of section 12342. As a result of the new consolidated forms (CGCC-030 and CGCC-031) and

the abolishment of many Division forms, section 12342 will now apply only to initial license applications.

For clarity purposes, Division forms DGC-APP. 015A, DGC-APP. 015B, DGC-APP. 015C, DGC-APP. 016A and DGC-APP. 006 have been revised. As a result, California Code of Regulations, Title 4, paragraphs (3), (4), (5), (6) and (10) of subsection (a) of section 12342 are amended by these regulations to reflect new revision dates for these forms. Except as otherwise stated below, the changes to these forms are non-substantive, where the amended language has the same meaning as the existing language. The exceptions to this are as follows:

1. In many cases, requested information has been completely deleted from the forms, as the Division found that the information served little purpose in determining the applicant's qualifications for licensure.
2. The titles of forms 015A, 015B and 016A would be revised by these regulations to better differentiate these forms from one another and from form 015C. Form 015A requests personal information about each owner applicant-individual that has an interest in the gambling establishment, so the words Owner Applicant-Individual have been added to the form's title for clarity purposes. Form 015B requests information about the owner entity of the gambling establishment, so the words Owner Entity have been added to the form's title for clarity purposes. Finally, the words Background Investigation have been added to the titles of forms 015A and 016A to help denote that these investigations involve the background of a natural person. As a result of these changes, California Code of Regulations, Title 4, paragraphs (3), (4) and (6) of subsection (a) of section 12342 are amended by these regulations to reflect these new form titles.
3. The introductory paragraphs in forms 015A, 015B, 015C and 016A would be revised with clarifying language that will help gambling license and key employee license applicants choose the correct supplemental information form(s).
4. Section J (new section 6) of forms 015A and 016A would be revised by these regulations to include details for all crimes (misdemeanors and felonies). The current versions of these forms requests details for felonies, but only a yes/no response for misdemeanors. These regulations will revise these forms to request details for both misdemeanors and felonies. Information about misdemeanors is



necessary in order for the Commission and the Division to meet their respective obligations and responsibilities under the Act.<sup>24</sup>

5. The “Declaration” sections in forms 015A, 015B, 015C and 016A would be revised by these regulations to make them easier for the applicant to understand. Much of the complex legal language has been replaced with a simple declaration, under penalty of perjury, that the information on the form is true, accurate and complete.

6. Forms 015A, 015B, 015C and 016A would be revised by these regulations to include a section that explains all of the various forms, fees and other documents that will be necessary for the applicant to complete and submit to the Division. These forms and documents are currently listed on the Division form “Instructions to Applicants, DGC-APP. 007 (Rev. 12-04)”. Form DGC-APP. 007 would be abolished by these regulations because the list of required forms and documents would be included on forms 015A, 015B, 015C, 016A, or on forms CGCC-030 or CGCC-031. These regulations would also add “Articles of Incorporation” and “Partnership Agreements” to the document list on form 015B. In the past, the Division would wait until later in the background investigation before requesting these documents. Added them to the document list on form 015B would help to produce a more complete list for the applicant and would help to speed up the licensing process by making the application package more complete from the very start.

7. In various sections of the current versions of forms 015A, 015B, 015C and 016A, the applicant is requested to provide complete details for such issues as other business names, parent companies, subsidiaries, affiliates, bankruptcies, judgments, liens, repossessions, asset or liability control and/or military experience. The Division found that these requests to provide complete details were too vague and open-ended, and produced inconsistent responses from applicants. As a result, these regulations will modify these forms to limit the applicant’s response to only specific information that is vital to the Division’s background investigation.

8. Forms 015A, 015B and 015C would be revised by these regulations to specifically ask the applicant if the gambling establishment, or any interest in the gambling establishment, is held by a trust. The Division has found in the past that not all applicants were aware that a trust interest in a gambling

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<sup>24</sup> Business and Professions Code, sections 19823, 19824, 19826, 19827, 19857, 19858 and 19859.

establishment must be reported, as per Business and Professions Code section 19852. If the applicant's answer to this trust question is yes, the applicant is advised by this revision to include in their application package the new Division form "Trust Supplemental Background Investigation Information, DGC-APP. 143 (New 06/07)". See below for a more complete discussion of the new form DGC-APP. 143.

9. The "Statement of Assets" sections of forms 015A, 015B and 015C would be revised by these regulations to include the market value of any capital improvements of assets. This will help the Division identify any additional funds that may have been invested in the gambling establishment. These regulations would also revise these sections of forms 015A, 015B and 015C to include the purchase price of business investments and real estate. The purchase price for these items is currently called for on Schedules D and E of these forms. These revisions would merely bring those figures forward to the Statement of Assets section.

10. The "Statements of Liabilities" sections of forms 015A, 015B and 015C would be revised by these regulations to include a request to declare the initial amount of payable notes and mortgages, rather than just the present balance. This will allow the Division to identify a reduction or gradual pay-down of these liabilities over time.

11. The "Other Licensing Information" sections of forms 015A, 015B and 016A would be revised by these regulations to require that any licenses or permits held for the holding of a lottery must be reported. This revision is for clarity purposes, as some applicants may not associate a lottery as being related to gaming. Lotteries, as defined in Penal Code section 319 are prohibited by Penal Code section 320, and ownership or interest in a lottery could affect an applicant's suitability for licensure.

12. The "Financial" information sections of forms 015A and 015B would be revised by these regulations to limit the reporting of bankruptcies to those events occurring within the previous 10 years. Current versions of forms 015A and 015B require all bankruptcies to be reported, regardless of age.

13. Schedule K (Liabilities) of forms 015B and 015C has been revised by these regulations to include a listing of any liabilities due to child support or alimony. Currently, only form 015A requests this information. These amendments to forms 015B and 015C recognize that such liabilities can exist for a business entity as well as for a natural person.

14. These regulations would add a new section to form 015A that reports the applicant's expenditures. Currently, form 015A asks for income information, but not expenditures. This revision to form 015A will provide applicants with the opportunity to offset their income with expenditures, thus producing a more complete picture of their financial situation.

15. These regulations would revise form 015A to remind applicants that any debt incurred to finance the gambling establishment must be reported in the "Statement of Liabilities" section of the form. Even though this section of the form currently states that "All liabilities must be reported...", this revision will clarify to the applicant that this includes those incurred to finance the business.

16. Schedule G (Accounts Payable) of form 015A has been revised to include a broader example of the types of accounts payable that must be reported on this schedule. Leases and lines of credit have been added to the current examples of revolving accounts and credit cards. This revision will help the applicant better understand the type of information requested. Schedule G has also been revised by replacing the "credit limit" column with a column that would list "collateral". Collateral is being requested rather than credit limit, as collateral more appropriately applies to the type of information requested on this schedule. The Division is looking for areas where the applicant has used assets as collateral against these liabilities.

17. The "Remunerations" section on form 015B has been revised by requesting that only those remunerations totaling more than \$200,000 be reported. Form 015B currently requests that remunerations over \$100,000 be reported. This reporting threshold has been changed to ease the burden on the applicant, as \$100,000 is no longer considered a significant amount of money to a business of this type. A remuneration reporting section (#7) has also been added to form 015C, recognizing that such remuneration payments can occur from the gambling establishment itself rather than just from the owner entity.

18. The "Financial Information" section of form 015B has been revised by these regulations to include the reporting of any asset repossessions or seizures within the previous 10 years, rather than the current reporting period of seven (7) years. This revision is necessary to make this reporting period consistent with what's currently called for on form 015A.

19. The "Financial Information" section of form 015B has been revised to include the reporting of any plans to sell, merge or acquire new businesses

within the next 24 months. The current version of form 015B calls for the reporting of any intentions to sell, merge or acquire new businesses within the near future. This revision limits the time frame to the term of the gambling license, which would be two years, as proposed by these regulations.

20. Form 015C has been revised to include a request for information about chips in use and player's banks. California Code of Regulations, Title 11, section 2053 currently requires gambling establishments to specifically designate accounts for both chips in use and player's banks. Although the gathering of this information is currently part of the Division's background investigation, requesting it up front on form 015C will help the applicant understand what will be expected of them as a licensee, and will save the Division the time necessary to explain these issues later.

21. These regulations add a litigation history section (#4) and a financial information section (#5) to form 015C. These new sections request lawsuit and financial information that apply to the gambling establishment itself. Form 015A currently requests this information from the individual owner-applicant of the gambling establishment, and form 015B requests the same information from the owner entity. These revisions to form 015C recognize that the gambling establishment itself can be a party to litigation, without necessarily naming other parties. The research of recent lawsuits is important to the Division's role in determining the gambling establishment's suitability for licensure. Likewise, these revisions to form 015C recognize that financial information may be different for the gambling establishment than it is for the individual owners of the business. In addition to the same financial information that is currently requested on forms 015A and 015B, this new financial section on form 015C will request information about any game inventors or profit sharing arrangements that may create a financial interest in the gambling establishment. This information is necessary in order to identify other persons or entities that may require licensure, pursuant to Business and Professions Code, section 19850.

22. The rent/lease section of form 015C would be revised by these regulations to include disclosure of any portion of rent/lease payments that are based on the revenues of the gambling establishment. This information is necessary in order to identify other persons or entities that may require licensure, pursuant to Business and Professions Code, section 19850.

23. The "Personal Information" section of form 016A would be revised by these regulations to include the disclosure of any immediate family members who

work in the same gambling establishment for which a key employee license is sought. Pursuant to Business and Professions Code, subdivision (c) of section 19854 and subdivision (b) of section 19857, the disclosure of this information is necessary for the Division to insure that these associations do not create or enhance the dangers of unsuitable, unfair or illegal practices in the conduct of controlled gambling.

24. The “Marital Information” section of form 016A would be revised by these regulations to include a date of birth for both current and former spouses. This would provide the Division with identifying information should the need arise to obtain additional information regarding the applicant’s current or former spouse.

25. The “Residences” section of form 016A would be revised by these regulations to include a listing of all residences during the preceding five (5) years, rather than the current ten (10) year requirement. For key employee licenses, the Division has found a five-year residential history to be sufficient in determining an applicant’s qualifications for licensure.

26. The “Experience and Employment” section of form 016A would be revised by these regulations to include a telephone number for the applicant’s supervisor. This section of form 016A currently requests the name, address and telephone number of the employer. This revision would recognize that a supervisor’s contact number may be different than that of the central employer.

27. The “Gross Annual Income” section of form 016A would be revised by these regulations to include the identification of the type of business from which income has been derived. The current version of form 016A requests only the dollar amount of business income. This revision to include the type of business would allow the Division to identify any possible prohibited interests that could affect the applicant’s suitability for licensure.

28. The “Gross Annual Income” section of form 016A would be revised by these regulations to include a yes/no question as to whether the key employee license applicant receives bonuses or profit sharing that are based on the revenue of the gambling establishment. If the bonuses or profit sharing were based on the employer’s revenue, the applicant is required to be licensed as one of the owners of the gambling establishment, rather than a key employee.<sup>25</sup>

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<sup>25</sup> Business and Professions Code, section 19850

29. Finally, the first page of form 006 would be revised by these regulations to include a more specific explanation of the types of information, records or documents that will be released as a result of the applicant's signature on the form. The current version of form 006 authorizes the release of any information or documents, whereas the revised form would specifically authorize the release of financial, employment, military, court, criminal or other licensing information, records or documents.

The authority to make the revisions to these forms is contained in Business and Professions Code, Title 4, sections 19811, 19824, 19826, 19827, 19840, 19841, 19850, 19851, 19852, 19854, 19856, 19857, 19858, 19859, 19864, 19865, 19866 and 19912.

Paragraph (28) of subsection (a) of section 12342 would be amended by these proposed regulations to require a different IRS form to be completed by a license applicant and forwarded to the Division as part of the applicant's supplemental package. The required form would change from "Tax Information Authorization, IRS 8821 (Rev. April 2004)" to "Request for Transcript of Tax Return, IRS 4506-T (Rev. April 2006)". The authority for the Division to obtain a copy of a license applicant's federal tax return is contained in Business and Professions Code, paragraph (12), of subdivision (d), of section 19880, and paragraph (12), of subdivision (e) of section 19890.

Subsection (a) of section 12342 would be amended by these proposed regulations to include a new paragraph (8), which would implement the new Division form, "Trust Supplemental Background Investigation Information, DGC-APP. 143 (New 06/07)". Paragraph (8) has been left open due to the proposed repeal of form DGC-APP. 017A (see above). This new form (DGC-APP. 143) requests information that may be unique to a trust, such as the trustee, trustor, beneficiary and trust authority. Business and Professions Code, section 19852 provides the authority to establish this new Division form.

Paragraph (2) of subsection (a) of section 12343 has been amended to strike the words "for processing", when referring to a license application package that is forwarded from the Commission to the Division. The intent of this paragraph is to require the Commission to forward the application to the Division within 10 days of determining that the package is complete. The words for processing may imply that the Division will process the application package, when in fact, the role of

accepting and processing applications is assigned to the Commission.<sup>26</sup> The Division's role is to investigate the qualifications and background of the applicant.<sup>27</sup> As a result, the words "for processing" are unnecessary and may cause confusion. Business and Professions Code sections 19811, 19824, 19840 and 19841 provide the authority to make these changes to section 12343.

Subsection (a) of section 12344 has been amended by striking the words "for and individual or a business organization" when referring to a state gambling license. These words are unnecessary and could cause confusion, as this section applies to all gambling licenses, regardless of ownership structure. Paragraph (1) of subsection (a) of section 12344 has also been amended to strike the word "form", when referring to a completed license application package. In this usage, the word form is unnecessary and grammatically incorrect. Finally, paragraph (2) of subsection (a) of section 12344 is being repealed, as the form entitled "Renewal Supplemental Information for State Gambling/Key Employee License and Instructions to Renewal Applicants" (DGC-APP. 017A) is no longer in use. Business and Professions Code sections 19811, 19824, 19840 and 19841 provide the authority to make these changes to section 12344.

Subsections (a) and (b) of section 12357 have been added to Chapter 6. These subsections would base the amount of the annual fee required by Business and Professions Code section 19951, subsection (b)(2)(B) on the tables in use or the gross revenues for the calendar year immediately preceding the date on which the fee is due. Section 12357 would make the fee due on April 30<sup>th</sup> of each calendar year. Subsection (c) of section 12357 would define a calendar year as commencing on January 1<sup>st</sup>, and ending on the following December 31<sup>st</sup>. These fees would be paid on the same schedule as that which will be set for the annual submission of financial statements. This means that table fees and financial statements would be due at the same time each year, both due on April 30. The authority to establish section 12357 is contained in Business and Professions Code sections 19811, 19823, 19824, 19840, 19841, 19876(a) and 19951.

Paragraphs (2), of subsections (a), of both sections 12358 and 12359 are being amended to cause the Commission to accept payment of both an application fee and a Division review deposit when the owner licensee of a gambling establishment applies for additional tables, on a temporary or permanent basis. These changes will simplify this application process by having the applicant

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<sup>26</sup> Business and Professions Code, subdivision (a), of section 19824, and subdivision (a), of section 19841

<sup>27</sup> Business and Profession Code, subdivision (a), of section 19826

submit both fees directly to the Commission, along with their application form and additional table fees. Business and Professions Code sections 19811, 19823, 19824, 19840, 19841, 19950(b) and 19952 provide the authority to make these changes to sections 12358 and 12359.

Subsection (d) of section 12370 has been amended to delete the word “annual” from the requirement that a licensee submit a copy of its current emergency preparedness and evacuation plan as part of its annual renewal application. This will allow this regulation to conform to a biennial renewal application, as proposed by this action. Obsolete implementation language has also been deleted from this section and the section has been amended to require that only one copy of the plan be submitted to the Commission upon renewal of a license. The authority to amend subsection (d) of section 12370 is contained in Business and Professions Code sections 19811, 19824, 19840 and 19876.

Paragraph (4), of subsection (b), of section 12400 has been amended to change the definition of the term “Fiscal Year”. This would change the meaning from the annual period used by the licensee for financial reporting to a calendar year, commencing on January 1<sup>st</sup> and ending on the following December 31<sup>st</sup>. Subsection (b) of section 12403 already requires licensees to submit their financial statements to the Commission within 120 days following the end of each fiscal year. These regulations would change that language to an actual date of April 30. Further, since section 12357 would require table fees to be paid on April 30 of each calendar year, then both the table fees and financial statements would be due on the same date each year. The authority to amend sections 12400(b)(4) and 12403(b) is contained in Business and Professions Code sections 19811, 19823, 19824, 19840 and 19841.

### Required Determinations

**Local Mandate:** These regulations do not impose a mandate on local agencies or school districts.

**Reasonable alternatives to the proposed regulations and reasons for rejecting those alternatives:** The Commission is not aware of any reasonable alternatives that would as effectively achieve the regulatory purpose of establishing a two-year license term for state gambling licenses and key employee licenses.



**Reasonable alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses:** The Commission is not aware of any reasonable alternative that would lessen any adverse impact on small businesses.

**Impact on private persons:** The Commission is not aware of any reasonable alternatives that would be more effective or as effective and less burdensome to private persons.

**Impact on business:** The Commission has made a determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.